

Part I

Appalachian State University

Code of Student Conduct

2011–2012

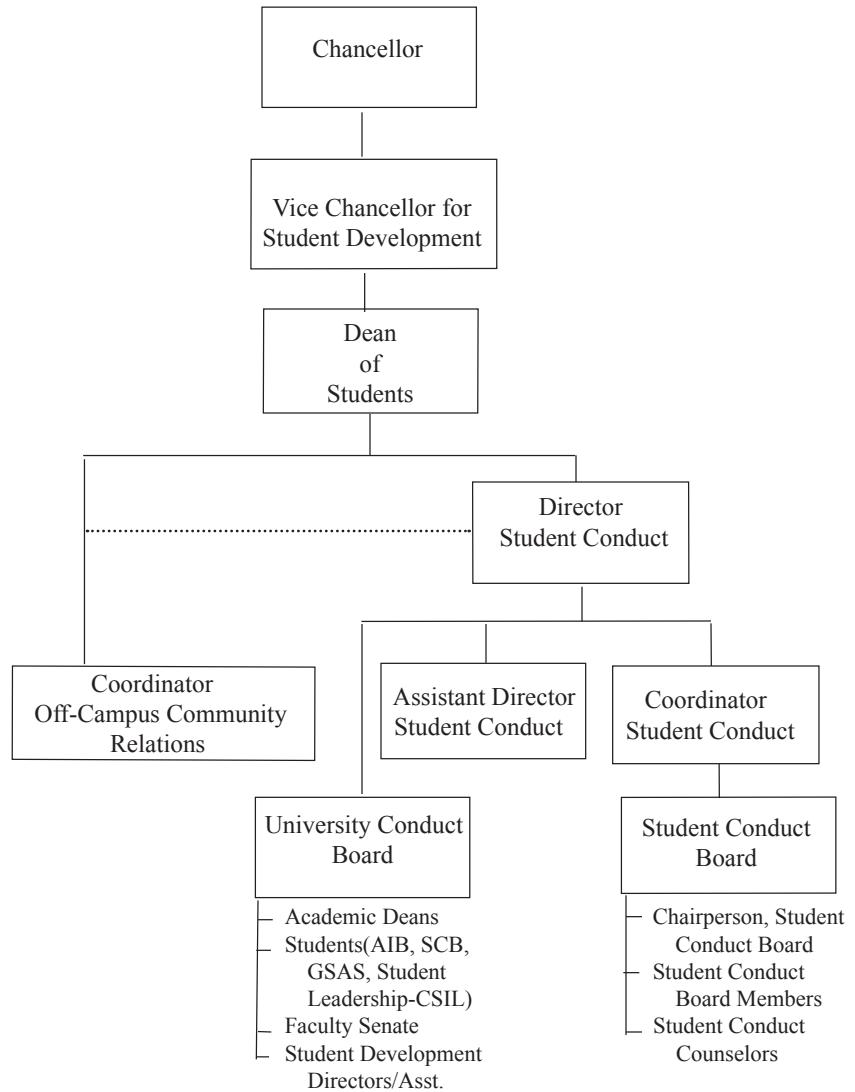
Appalachian State University
Code of Student Conduct
Issued by the Office of the Chancellor
July, 1991
Revised May 6, 2011

The University reserves the right to change procedures
herein at any time within a student's term of enrollment.

Each student is responsible for maintaining current
knowledge of disciplinary rules and regulations.

The Code of Student Conduct can be accessed at
www.studentconduct.appstate.edu

Office of Student Conduct Administrative Flow Chart



Appalachian State University Title IX Coordinator:
Ms. Linda Foulsham, Office of Equity, Diversity, and Compliance

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Code of Student Conduct
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The Appalachian State University Code of Student Conduct

GOVERNANCE OF THE UNIVERSITY

Appalachian State University in Boone, North Carolina, is chartered by the State of North Carolina as a constituent institution of The University of North Carolina. Under Section 502D of the Code of the Board of Governors of The University of North Carolina, the Board and the President of The University of North Carolina delegate to the Chancellor of Appalachian State University "...full authority in the regulation of student affairs and in matters of student discipline..." at Appalachian State University. The Chancellor is afforded the prerogative of delegating authority to act in student disciplinary matters to faculty committees, administrative officers, and to agencies of the student government. The Vice Chancellor for Student Development has been charged by the Chancellor with the authority to act in student disciplinary matters subject to the control of the Chancellor. University and student conduct boards have been created to assist in the administration of the disciplinary system. Conduct boards and administrative officers are charged with authority to act on disciplinary matters as defined in this Code of Student Conduct. For this purpose, the Chancellor of Appalachian State University has established this Code of Student Conduct. It sets forth the minimum level of conduct expected of every student at the University. The policies and procedures given herein are those approved by the Chancellor and are based on recommendations from students, faculty, and administrators at this University. They are designed to further the educational aims of the University and to assist all students in the pursuit of their educational and personal development.

PURPOSE AND GOALS

Appalachian State University's fundamental mission is to discover, create, transmit and apply knowledge to address the needs of individuals and society. This mission is achieved by providing undergraduate students a rigorous liberal education that emphasizes transferable skills and preparation for professional careers; offering graduate students distinctive, relevant programs; maintaining a faculty whose members serve as excellent teachers and scholarly mentors for their students and who produce high levels of scholarship and creative activities. Appalachian recognizes that the success of the university depends upon the achievement and cooperation of a diverse community of students, faculty, and staff and strives to implement policies and allocate resources accordingly. We accept our responsibility to be actively involved in addressing the educational, economic, cultural, and societal needs of the changing region, state, nation, and world. As a publicly funded institution, Appalachian is committed to accomplishing its initiatives through efficient and effective resource utilization.

As an academic community, Appalachian State University has an interest in the safety, welfare, and education of the members of this community and in fostering an environment consistent with the educational mission, purpose, and process of the University. Attendance at Appalachian State University is a voluntary entrance into an academic community dedicated to teaching, scholarship, research, service, character development, and the personal growth of students. When students enter the University, they assume obligations of performance and behavior relevant to the University's mission, processes, and functions. These expectations of students in an academic community are higher than those expected of other citizens.

The Office Of Student Conduct:

We acknowledge that students have rights and responsibilities as members of the Appalachian State University community, and that the University has expectations regarding the behavior of its members, which extend beyond the classroom into all aspects of life. Our mission as the Office of Student Conduct is to educate students about community standards, promote student learning, and facilitate the development of thoughtful and responsible citizens through a fundamentally fair process, as set forth in the Academic Integrity Code and the Code of Student Conduct. All students are responsible for abiding by the Appalachian State University Academic Integrity Code and the Code of Student Conduct. All accepted students agree to the expectations set forth by the University and from the time of their acceptance can be held responsible for their behavior.

All students are responsible for conducting themselves in a manner that enhances an environment of learning in which the rights, dignity, worth, and freedom of each member of the academic community are respected.

The process by which the University community educates students who violate the community standards of this Code of Student Conduct is through disciplinary counseling and the imposition of sanctions, including possible separation from the University.

Even in the case of suspension or expulsion for misconduct, the process is not intended to be punitive. Such a decision is a determination by the University community that the student is not qualified to continue as a member of Appalachian State University.

The goals of the conduct process are as follows:

1. to educate the student by explaining the reasons for the community standards;
2. to determine with the student the reason(s) for the misconduct;
3. to help bring the student's behavior into compliance with the community standards;
4. to have the student accept responsibility for his or her behavior;
5. to help the student clarify his or her values as they relate to the behavior in question;
6. to assist the student in making future choices that will enable him or her to be successful;
7. to help the student consider in advance the consequences of his or her behavior;
8. to protect the safety and welfare of the University community.

Violations of campus or University policies, rules or regulations, or federal, state, or local law may result in a violation of the Code of Student Conduct and imposition of student discipline.

The procedures and processes given in this Code of Student Conduct are not intended to be equivalent to the process of federal or state criminal law. Criminal procedures and processes do not address the academic mission of the University. Decisions made using the Code of Student Conduct take into consideration both the rights of the student and the needs of the University in accomplishing its educational goals and mission. In exercising its disciplinary authority, the University is committed to the principle of fundamental fairness for students. Policies governing the conduct of students and sanctions for misconduct by students are administered without regard to race, color, religion, sex, national origin, age, disability, family status, veteran status, or sexual orientation.

It is the prerogative of the University, through the Vice Chancellor for Student Development and the Chancellor, to make decisions on the correct application of general

policy statements and procedures to specific students under specific sets of circumstances and to interpret and apply the provisions of this Code of Student Conduct.

The University embraces and strives to uphold the freedoms of expression and speech guaranteed by the First Amendment of the U.S. Constitution and the North Carolina Constitution. The University has the right under appropriate circumstances to regulate the time, place, and manner of exercising these and other constitutionally protected rights.

In determining whether a student violates the Code of Student Conduct, all relevant facts and circumstances shall be considered. Due care will be exercised in order to preserve freedoms of speech and expression, as articulated in current legal standards. Advice will be sought from campus attorneys, as appropriate.

The provisions of the Code of Student Conduct are not contractual covenants between the University and the student. The University reserves the right to change procedures herein at any time within a student's term of enrollment. Such changes will be communicated to members of the University community through appropriate publications. Each student is responsible for maintaining current knowledge of disciplinary rules and regulations at all times.

The Code of Student Conduct can be accessed at www.studentconduct.appstate.edu. Copies are also available in the Office of Student Conduct, room 221, Plemmons Student Union.

ARTICLE I—BILL OF STUDENTS' RIGHTS

1.01 Rights of a Student alleged to have violated the Code of Student Conduct are the following:

- a. the right to a fundamentally fair process
- b. the right to be given notice in writing of any charge(s) of misconduct
- c. the right to be presumed not responsible until proven otherwise
- d. the right to review the information to be presented in any hearing, provided that the information may be given to the student in a comprehensive summary
- e. the right to know the identity of individuals speaking at a hearing or providing written information for consideration at a hearing and the right to ask reasonable questions of any individuals speaking at a hearing
- f. the right to obtain advice and assistance in preparing a response to any allegation of misconduct under this Code
- g. the right to appeal a decision by a conduct board or a conduct review officer within the limits of the time specified in this Code

1.02 Rights of a Person Bringing Allegations under the Code of Student Conduct are the following:

- a. the right to a fundamentally fair process
- b. the right to review the information to be presented in any hearing, provided that the information may be given to the student in a comprehensive summary
- c. the right to know the identity of individuals speaking at a hearing or providing written information for consideration at a hearing and the right to ask reasonable questions of any individuals speaking at a hearing
- d. the right to obtain advice and assistance in preparation to address any allegation of misconduct under this Code

- e. the right to be informed of any final results of a disciplinary proceeding in cases involving crimes of violence and alleged sex offenses
- f. the right, in cases of a crime of violence including sex related offenses, (Article 4.01g and 4.02t) to file an appeal of any disciplinary decision with the Vice Chancellor for Student Development within five working days of the date notified of the decision
- g. the right to file criminal charges or seek civil action in a court in addition to any action taken under the Code

ARTICLE II—DEFINITIONS

- 2.01 The term "Academic Dishonesty" shall be defined by Section IV of the Academic Integrity Code. Allegations of academic dishonesty are governed by the Academic Integrity Code.
- 2.02 The term "Academic Integrity Code" means the set of policies and procedures used by the University to adjudicate allegations of academic dishonesty.
- 2.03 The term "Chancellor" means the Chancellor of Appalachian State University. The Chancellor may delegate the authority to perform any of the duties assigned to him or her as prescribed in this Code.
- 2.04 The term "Code" means the Appalachian State University Code of Student Conduct unless the context specifically indicates otherwise.
- 2.05 The term "Crime of Violence" means one or more of the following acts: Arson, Assault , Burglary, Criminal homicide—manslaughter by negligence, Criminal homicide—murder and non negligent manslaughter, Destruction/damage/vandalism of property, Kidnapping/abduction, Robbery, and all Sex Offenses (as defined by the FBI's Uniformed Crime Reporting (UCR) program).
- 2.06 The term "Good Standing" for purposes of a student's eligibility to serve on a Conduct Board or the Academic Integrity Board means the student is not currently on disciplinary probation (general or specific) and has never had an academic integrity violation.
- 2.07 The term "Faculty Member" means any person hired by the University to teach in any capacity as defined by the University's Faculty Handbook.
- 2.08 The term "Impact Statement" means an oral or written statement submitted by a victim of a crime of violence, including a sex offense, describing how the event affected his/her life, including recommendations for the type of disciplinary action s/he would like to see taken. The statement shall only be made available to a Conduct Board when an accused student has been found responsible for violating the *Code of Student Conduct*. This statement is not binding on a Conduct Board, but will be given such weight as the Board deems appropriate under the circumstances in determining a sanction that complies with the guidelines set forth in Article VI of the *Code*.
- 2.09 The term "May" is used in the permissive sense.

- 2.10 The term “Member of the University Community” includes any person who is a student, faculty member, University official, or other person employed by the University.
- 2.11 The term “Misconduct” is any action by a student that endangers or threatens to endanger the health or safety of the University community or the educational mission of the University, or any behavior that violates the standards of conduct specified in Article IV of this Code.
- 2.12 The term “Organization” means any group of students who have received recognition by the University, by virtue of budgetary support or publication of information regarding that organization in official University publication.
- 2.13 The term “Policy” is defined as the written regulation, rule, or statement of Appalachian State University as found in any official publication of the University including, but not limited to, Appalachian State University catalogs, the Code of Student Conduct, the Housing and Residence Life License & Contract and the Student Handbook.
- 2.14 The term “Sanction” means a disciplinary outcome for a violation of the Code of Student Conduct used as a means of educating students.
- 2.15 The term “Sex Act” means sexual intercourse, cunnilingus, fellatio, or knowingly inserting an object or part of one’s body into another’s genital or anal opening.
- 2.16 The term “Shall” is used in the imperative sense.
- 2.17 The term “Student” means any person from the time they accept admission to Appalachian State University through the date of their graduation. This includes but is not limited to: new students at Orientation, persons not currently enrolled but who are still seeking a degree from Appalachian State University, and any other person enrolled in a credit earning course offered by Appalachian State University. It also includes any person who has graduated, if the university determines that his or her graduation or receipt of credit may involve misconduct while he or she was working toward a degree.
- 2.18 The term “Summary Suspension” means an immediate separation of a student from the University as a result of behavior of a serious nature that is potentially dangerous to the student, health and safety of the University community, its property, or its educational mission. (see Article VIII).
- 2.19 The term “University” means Appalachian State University, a constituent institution of The University of North Carolina, located in Boone, North Carolina or any officially designated location.
- 2.20 The term “University Official” means an employee of the University acting in the performance of his or her assigned duties, capacity, or authority.
- 2.21 The term “University Property” includes but is not limited to all land, buildings, facilities, and other property owned, controlled, or used by the University, including adjacent streets and sidewalks and facilities not immediately adjacent to the main campus. In context, it may also include stationary items or movables (e.g., light fixtures, computers, and automobiles).

- 2.22 The term “Vice Chancellor for Student Development” means the Vice Chancellor for Student Development at Appalachian State University. The Vice Chancellor for Student Development may delegate the authority to perform any of the duties assigned to him or her as prescribed in this Code.
- 2.23 Terms not specifically defined in the Code of Student Conduct shall be defined by the Webster’s Unabridged Dictionary.

ARTICLE III—AUTHORITY

3.01 Authority of the University

The University has authority over all conduct violations that occur in University facilities and/ or on property owned, controlled, or used by the University. It reserves the right to consider the behavior of students off campus when it is determined that the off-campus behavior interferes with the University and its educational mission.

The purpose of this policy is (1) to prevent and reduce behavior that undermines student academic success and that negatively detracts from the educational mission of the university; (2) to improve the health and safety of students and other community members; (3) to provide timely support and resources for those who may be struggling with substance abuse/addiction, and (4) to prevent violence in and around Appalachian’s campus. Appalachian’s decision to address both on-campus and off-campus behavior in the Code of Student Conduct is in fulfillment of its educational mission.

The primary types of off-campus violations referred to the Office of Student Conduct include (but are not limited to):

- a. Felony charges;
- b. Assault charges;
- c. Driving While Impaired (DWI) charges or charges of driving by persons less than 21 years old after consuming alcohol or drugs;
- d. Repeated Alcohol Misdemeanor charges;
- e. Repeated Other Drug Misdemeanor charges;
- f. Activities of a student or group of students that clearly conflict with the University’s interests and mission, including, but not limited to, patterns of behavior that put the health and safety of oneself or others at risk or show disregard for the policies of the University.

3.02 Precedence of the Code of Student Conduct

The Code of Student Conduct is the University’s primary policy statement governing student conduct and student discipline. Operating units of the University, (e.g., academic colleges, academic departments, the Department of University Housing, the Athletic Department) may also establish conduct standards for the student/departmental relationship, so long as these standards are not inconsistent with the provisions of this Code. A determination that the student violated the Code and the application of a sanction specified in this Code does not preclude the application of sanctions under departmental regulations. However, sanctions applied under departmental regulations may not exceed those specified in this Code. Departmental sanctions may be imposed in lieu of sanctions applied in proceedings under this Code only when done in consultation with the Director of Student Conduct.

The University may proceed with unresolved charges under the Code of Student Conduct regardless of an individual's enrollment status.

The University also reserves the right to dismiss any student prior to his or her enrollment by rescinding that student's admission upon a finding of cause to do so. Such a finding shall be an administrative decision rendered by the Vice Chancellor for Student Development or his or her designee.

3.03 Violation of Law and University Disciplinary Policies

University disciplinary proceedings may be instituted against a student charged with a violation of law that is also a violation of the Code of Student Conduct. The University reserves the right to proceed under the Code of Student Conduct with a hearing and the possible imposition of a sanction prior to, concurrent with, or subsequent to, civil litigation, criminal arrest, and/or criminal prosecution. The University cooperates fully with outside law enforcement agencies to the extent permitted by law.

3.04 Conduct Boards

The Student Conduct Board and the University Conduct Board are established to make determinations regarding alleged violations of this Code.

- a. The Student Conduct Board is established subject to the authority of this Code and the Vice Chancellor for Student Development. The Student Conduct Board shall be composed of twelve board members and a chairperson. All members of the board shall be full-time undergraduate students in good standing with a grade point average of 2.5 or above. Members of the Student Conduct Board shall be selected by the Conduct Personnel Committee. The Chairperson of the Conduct Personnel Committee shall inform the Student Government Association Student Senate of the students selected. All members of the conduct board shall serve one-year terms, which may be renewed. The chairperson shall be a full-time student who is at least a junior and maintains a 2.75 cumulative GPA.
- b. The University Conduct Board is established subject to the authority of this Code and the Vice Chancellor for Student Development. The University Conduct Board is composed of nine persons, who shall be selected on a case-by-case basis by the Director of Student Conduct from a pool of students, faculty, academic deans, and student development educators. The composition of a University Conduct Board shall be as follows:
 1. Three faculty members from a pool composed of all members of the Appalachian State University faculty.
 2. Three students from a pool consisting of all members and the Chairperson of the Student Conduct Board, all members of the Graduate Student Association Senate, all student members of the Academic Integrity Board, and all full-time, enrolled former members of the Student Conduct Board who are in good standing.
 3. Two student development professionals from a pool consisting of all directors, associate directors, and assistant directors in the Division of Student Development.
 4. The dean of the college in which the accused student is enrolled (the dean may send a representative who may be an associate dean, an assistant dean, or a faculty member designated by the dean. In the absence of a dean, or a representative, the Vice Chancellor for Academic Affairs shall appoint a person to serve on the committee in this capacity).

5. One member of the University Conduct Board will be appointed chairperson by the Director of Student Conduct each time a University Conduct Board is convened.
- c. A quorum shall consist of any five members of the Conduct Board excluding the chairperson.
- d. The hearing procedures used by a Conduct Board to adjudicate alleged violations of this Code are not formally part of this Code except as provided in Article VI. Copies of the hearing procedures are available from the Office of Student Conduct.

3.05 Committee on Student Conduct

- a. The Committee on Student Conduct is established subject to the authority of the Vice Chancellor for Student Development and the Chancellor. The authority of the Committee on Student Conduct is to periodically review the Code of Student Conduct and to make recommendations through the Vice Chancellor for Student Development to the Chancellor for changes in the Code of Student Conduct which are in the best interest of the University.
- b. The Committee on Student Conduct shall be composed of two members of the Council of Deans appointed by the Vice Chancellor for Academic Affairs, the Chair of the Faculty Senate and the Chair of the Council of Chairs, two members of the Division of Student Development appointed by the Vice Chancellor for Student Development, the Director of Student Conduct, the President of the Student Government Association, the President of the Graduate Student Association Senate, the Vice President of the Student Government Association, the Chairperson of the Student Conduct Board and the President of the Residence Hall Association. Each member of the Committee on Student Conduct shall serve a one-year term and may be reappointed. The Vice Chancellor for Student Development shall serve as Chairperson of this committee.
- c. A quorum shall consist of a simple majority of the appointed members. The Chancellor reserves the right to appoint other such committees or groups as he or she deems appropriate to advise him or her on changes or revisions to the Code.

3.06 Conduct Personnel Committee

- a. The Conduct Personnel Committee is established subject to the authority of the Vice Chancellor for Student Development and the Chancellor. The authority of the Conduct Personnel Committee is to advertise, interview, and select the members of the Student Conduct Board. The Chairperson of the Conduct Personnel Committee shall inform the Student Government Association Student Senate of the students selected.
- b. The Conduct Personnel Committee shall select the chairperson of the Student Conduct Board.
- c. The Conduct Personnel Committee shall consist of one member of the Residence Hall Association, the Director of University Housing or a designee, the Vice President of the Student Government Association and one additional member of the Student Government Association, a member of the Academic Integrity Board, the Chair of the Student Conduct Board, an outgoing member of the Student Conduct Board, and a member at large appointed by the Vice Chancellor for Student Development. The Director of Student Conduct or designee shall serve as chairperson of this committee.

3.07 Student Counselor and University Conduct Advocate

One or more full-time graduate or undergraduate students or Student Development professionals may be appointed by the Director of Student Conduct to fulfill the following roles, as needed:

- a. The Student Conduct Counselor shall assist students who are charged with violating the Code of Student Conduct.
- b. The University Conduct Advocate shall assist individuals who are bringing allegations to the Conduct Board, as well as assisting the University in preparing and presenting cases for a Conduct Board.

3.08 Conduct Review Officer

The Director of Student Conduct may appoint one or more persons to serve as Conduct Review Officers.

The authority of a Conduct Review Officer shall be as follows:

1. to properly identify allegations against a student pursuant to the Code of Student Conduct based on evidence of a violation;
2. to review the information supporting any alleged violation of this Code and determine if there is sufficient basis to pursue allegations or formal charges under the Code;
3. to discuss any allegation or charge of misconduct with an accused student;
4. to inform a student of his or her rights under the Code;
5. to render administrative decisions and assign educational sanctions under the provisions of Article VII.
6. to refer cases to a Conduct Board.

3.09 Director of Student Conduct

The Vice Chancellor for Student Development shall appoint, as an employee of the University in the Division of Student Development, the Director of Student Conduct. The disciplinary authority of this person is subject to the supervision of the Vice Chancellor for Student Development and the Chancellor.

- a. The duties of the Director of Student Conduct shall include the following:
 1. administer the provisions of the Code of Student Conduct and perform the responsibilities given this position by the Code;
 2. act on behalf of the Vice Chancellor for Student Development as authorized by directive;
 3. serve as a Conduct Review Officer;
 4. maintain all official University disciplinary records;
 5. advise the Vice Chancellor for Student Development on changes in the Code that need to be considered by the Committee on Student Conduct;
 6. advise the Conduct Boards;
 7. train and advise conduct board members and officers.
- b. The Director of Student Conduct may delegate any of the above-duties to an appropriate individual.
- c. The Vice Chancellor for Student Development reserves the right to alter the duties of the Director of Student Conduct or to temporarily reassign some or all of these duties to others.

ARTICLE IV—CONDUCT PROHIBITED BY THE UNIVERSITY AND GUIDELINES FOR DETERMINING APPROPRIATE SANCTIONS

To maintain fairness and consistency, the following guidelines are used in determining appropriate sanctions for violations of the Code of Student Conduct. There is a presumption that at least the minimum sanction will be imposed. A conduct board may impose a sanction less than or greater than the minimum only when there is a compelling reason to take such action. A conduct review officer, in consultation with the Director of Student Conduct, may impose a sanction less than the minimum or greater than the maximum when there is a compelling reason to do so. Consideration will be given to the type of violation, the severity of the offense, and other factors that might be relevant to such special consideration. In cases where a sanction less than the minimum is considered, the burden of proof shifts to the student who violated the Code to offer compelling reasons for a lesser sanction to be assigned. However, the University is bound by UNC policies on drug related behavior.

4.01 Misconduct: Minimum Sanction Expulsion or Suspension:

Certain conduct presents a clear and present danger to all members of the University community. By statute or policy, the State of North Carolina, the University of North Carolina, or Appalachian State University prohibits this conduct and the University has determined that this conduct by a student shall have a minimum sanction of suspension or expulsion.

- a. [Recodified as Section 4.02-am.]
- b. Falsely reporting the presence of an unlawful explosive or incendiary device with the intent to mislead, deceive, or disrupt the operation of the University or a scheduled event sponsored or co-sponsored by the University.
Minimum sanction: Expulsion; Maximum sanction: Expulsion
- c. Falsely reporting a fire or other emergency; falsely setting off a fire alarm.
Minimum sanction: Suspension; Maximum sanction: Expulsion
- d. For the manufacture, sale or delivery, or possession with the intent to manufacture, sell, or deliver, any controlled substance identified in Schedule I, North Carolina General Statutes 90-89, or Schedule II, North Carolina General Statutes 90-90 (including, but not limited to, heroin, mescaline, lysergic acid diethylamide, opium, cocaine, amphetamines, methaqualone), or similar relevant provisions of federal or foreign law.
Minimum sanction: Expulsion; Maximum sanction: Expulsion
- e. For the first offense involving the manufacture, sale or delivery, or possession with intent to manufacture, sell or deliver, any controlled substance identified in Schedules III through VI, North Carolina General Statutes 90-91 through 90-94, (including, but not limited to, marijuana, pentobarbital, codeine) or similar relevant provisions of federal or foreign law.
Minimum sanction: Suspension; Maximum sanction: Expulsion
- f. For a first offense involving the possession or use of any controlled substance identified in Schedule I, North Carolina General Statutes 90-89, or Schedule II, North Carolina General Statutes 90-90, (including, but not limited to, heroin, mescaline, lysergic acid diethylamide, opium, cocaine, amphetamines, methaqualone) or similar relevant provisions of federal or foreign law.
Minimum sanction: Suspension; Maximum sanction: Expulsion
- g. Sex offenses — any sex act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where

the victim is incapable of giving consent which can include but not limited to the use of alcohol and/or other drugs. [Non-forcible sex offenses are acts of unlawful non-forcible sexual intercourse (e.g. incest)]; sex acts include, but are not limited to, rape, fellatio, sodomy, or knowingly inserting an object or part of one's body into another's genital or anal opening.

Minimum sanction: Suspension (eight semesters); Maximum sanction: Expulsion

- h. Felonies — commission of an act that is classified as a felony under state and federal law.

Minimum sanction: Suspension; Maximum sanction: Expulsion

- i. Threats of violence directed toward groups on campus that disrupt University activities, whether communicated to one or more individuals.

Minimum sanction: Suspension; Maximum sanction: Expulsion

- j. Unauthorized entry into an elevator shaft and/or riding on top of an elevator car is prohibited.

Minimum sanction: Suspension; Maximum sanction: Expulsion

- k. Possession on University property of a gun, rifle, pistol, or other firearm, dynamite cartridge, bomb (homemade or otherwise), grenade, mine or powerful explosive or any unauthorized possession of a weapon of the type described in this section.

Minimum sanction: Suspension; Maximum sanction: Expulsion

- l. Battery on a University employee.

Minimum sanction: Suspension; Maximum sanction: Expulsion

- m. Defacing public property (e.g., graffiti, gluing, posting, or similarly affixing signs or posters to campus buildings or structures or property in unauthorized locations).

Minimum sanction: Suspension; Maximum sanction: Expulsion

- n. To display or brandish a weapon of any kind, or any item that may be used or perceived as a weapon, in a manner that would reasonably create a fear of harm to others.

Minimum sanction: Suspension; Maximum sanction: Expulsion

4.02 Misconduct: That may be Sanctioned by a Range of Educational Outcomes:

To provide for the safety and well-being of all members of the University community and to insure that the University is able to fulfill its mission, purposes, functions, and processes, the University prohibits students from engaging in the following conduct:

- a. Academic dishonesty (see Article IV of the University Academic Integrity Code).

Minimum sanction: General Probation; Maximum sanction: Expulsion

- b. Unauthorized setting of fires.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- c. Assault and/or battery — the intentional infliction of injury to another by force, or force directed towards the person of another, under such circumstances as to create a well-founded fear of imminent peril, coupled with apparent ability to execute the attempt, if not prevented.

Minimum sanction: Specific Probation; Maximum sanction: Expulsion

- d. Intentional disruption of, obstruction of, or interference with teaching, research, co-curricular or other University activities or other University-sponsored or University co-sponsored activities, programs, or events.

Minimum sanction: Specific Probation; Maximum sanction: Expulsion

- e. The unauthorized possession or use of any controlled substance identified in

Schedules III through VI, North Carolina General Statutes 90-91 through 90-94 (including but not limited to, cannabis, marijuana, codeine, pentobarbital), or similar relevant provisions of federal or foreign law, or use or possession of synthetic cannabis (K2, Spice, etc.), the abuse of medically prescribed drugs, or the misuse of inhalants.

First violation

Minimum sanction: Specific Probation (80 academic days); Maximum sanction: Expulsion

Second Violation

Minimum sanction: Suspension; Maximum sanction: Expulsion

- f. Tampering with, or removing from its proper location, any fire extinguisher, hose, or other fire or emergency equipment, except when done with a reasonable belief of real need for such equipment.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- g. Intentionally delaying, obstructing, or resisting a person who identifies himself or herself as a member of the faculty, University administrator, University police officer, or other law enforcement officer, fire person, or other University employee in the performance of his or her duty.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- h. The unauthorized entrance to any University building or any University property or premise.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- i. Rioting, inciting to riot, assembling to riot, raiding, inciting to raid, and assembling to raid University units.

Minimum sanction: Specific Probation; Maximum sanction: Expulsion

- j. Possession on University property of a weapon including, but not limited to, a BB gun, paintball gun, air rifle, air pistol, bowie knife, dirk, dagger, slingshot, taser, leaden cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except for personal shaving), any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparing food, instruction, and maintenance.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- k. Vandalism, behavior likely to result in destruction, damage, misuse or abuse of public or private property, including library materials.

Minimum sanction: Specific Probation; Maximum sanction: Expulsion

- l. Forgery, alteration, or misuse of University documents, records, or identification cards; furnishing false information to the University with intent to deceive and/or mislead; possession or use of a fake, forged or altered identification cards of any kind.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- m. Failure to comply with the official regulation or order of a duly designated authority, agency, or agent of the University.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- n. The unauthorized taking, possession or entry into the property of another.

Minimum sanction: Specific Probation; Maximum sanction: Expulsion

- o. Knowingly furnishing false information to a conduct board or to a conduct review officer, or to any other University official.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- p. Knowingly making in public a false oral statement with the intent to deceive and/or mislead or knowingly publishing and/or distributing a false written or printed statement with the intent to deceive and/or mislead.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- q. Lewd, indecent, or obscene conduct.
Minimum sanction: General Probation; Maximum sanction: Expulsion
 - r. Disorderly conduct — the creation of a public disturbance including, but not limited to: fighting or other violent behavior/conduct; creating the threat of imminent fighting or other violence; committing a nuisance or generally engaging in disruptive behavior; using language that is likely to provoke a reasonable person to violent retaliation; disrupting, disturbing, or interfering with the academic atmosphere of a living or learning environment.
Minimum sanction: Specific Probation; Maximum sanction: Expulsion
 - s. Hostile communication — threatening another individual physically, verbally or by any other means in a manner to make that individual reasonably believe that the threat or threats are likely to be carried out; intimidation; or coercion.
Minimum sanction: Specific Probation; Maximum sanction: Expulsion
 - t. Sexual misconduct — non-consensual, intentional physical conduct of a sexual nature, such as unwelcome physical contact with a person's genitals, buttocks or breasts. Lack of consent may be inferred from the use of force, threat, physical intimidation, or advantage gained by an individual's mental or physical incapacity or impairment of which the perpetrator was aware or should have been aware.
Minimum sanction: General Probation; Maximum sanction: Expulsion
 - u. Excessive or disruptive noise, or the public use of unapproved amplified sound, or the amplification of sound in a manner that disrupts or disturbs the normal functioning of the University.
Minimum sanction: Specific Probation; Maximum sanction: Expulsion
 - v. Unauthorized use of University property or facilities.
Minimum sanction: General Probation; Maximum sanction: Expulsion
 - w. Unauthorized solicitation or unauthorized fund raising of any type.
Minimum sanction: General Probation; Maximum sanction: Expulsion
 - x. Possession or use of alcoholic beverages by any student under the age of 21; or the abuse of alcohol privileges, including driving while impaired; or providing alcoholic beverages to any student under the age of 21; or possession or consumption of energy drinks containing alcohol on campus. The conduct of students on international trips in countries where the legal drinking age is under 21 shall be governed by policies set by the program, provided that students shall still be held responsible for behavior constituting the abuse of alcohol privileges.
- First violation*
Minimum sanction: General Probation; Maximum sanction: Specific Probation
- Second violation or first driving while impaired violation*
Minimum sanction: Specific Probation; Maximum sanction: Suspension
- Third violation*
Minimum sanction: Suspension; Maximum sanction: Expulsion
- y. Unattended or unleashed pets on property owned or controlled by the University, except as specified in Section 4.03e.
Minimum sanction: General Probation; Maximum sanction: Expulsion
 - z. Commission of an act, or an attempt to commit an act, that would be in violation of any local, state, or federal law.
Minimum sanction: General Probation; Maximum sanction: Expulsion
 - aa. Violating general probation or specific probation, e.g. not completing required sanctions or a positive result on a drug screen.
Minimum sanction: General Probation; Maximum sanction: Expulsion
 - ab. Attempting to commit, or being an accessory to the commission of, any miscon-

duct specified in this Code, including being in the presence of a Code violation in a campus residential area.

Minimum sanction: Reprimand; Maximum sanction: Expulsion

ac-d. Harassment – “Harassment” is defined as unwelcomed and unsolicited speech or conduct based on race, color, religion, creed, sex, national origin, age, political affiliation, veteran status disability, sexual orientation, or gender identity and expression that creates a hostile environment or circumstances involving quid pro quo. Harassment includes, but is not limited to, all sex related offenses. See policy on Harassment and Discrimination.

1. No student shall threaten, coerce, intimidate or otherwise harass another person or identifiable group of persons.
2. No student shall engage in harassment leading to a hostile environment. A hostile educational environment is one that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile environment is determined by looking at all of the circumstances, including frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether the conduct unreasonably interferes with an individual’s work performance, academic advancement, participation in extracurricular activities or access to University services. In some cases, a single incident may constitute harassment.
3. No student shall engage in quid pro quo harassment. Quid pro quo harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, academic advancement, participation in extracurricular activities or access to University services, or 2) submission to or rejection of such conduct by an individual is used as the basis for decisions affecting that individual related to employment, academic advancement, participation in extracurricular activities or access to University services.
4. No student shall retaliate against another person. “Retaliation” is defined as adverse treatment of a person because that person filed a complaint about or otherwise opposed harassment or other forms of impermissible discrimination, or provided information relative to a harassment or discrimination complaint, or was involved in such a complaint in any way.

Minimum sanction: Specific Probation; Maximum sanction: Expulsion

ae. Misuse or abuse of computers, computer systems, computer networks, programs, computer resources and data or violation of any state or federal law or University policy on the use of computers, computer systems, or computer networks. Misuse or abuse of computers includes but is not limited to:

1. Any attempt to breach or the actual breach of network or computer security;
2. Unauthorized entry into a file, to use, read, delete, or change the contents, or for any other purpose;
3. Unauthorized copying or distribution of copyrighted computer software or other materials;

Minimum sanction: Specific Probation and one full semester (80 academic days) without network access; Maximum sanction: Suspension

See Appendix B: Re: Digital Millennium Copyright Act

4. Unauthorized transfer of a file;

5. Use, or attempted use, of another person's identification and/or password or assisting another to misuse any identification or password;
6. Use of computing facilities to interfere with the work of another student, faculty member, university official, or any other member of the University community;
7. Use of computing facilities to send obscene or abusive messages;
8. Use of computing facilities to send unauthorized mass e-mailings or chain mail;
9. Use of web cams or any computer video recording devices without the verbal consent or knowledge of those being recorded;
10. Use of computer facilities to interfere with normal operation of any University computing system network.

For all other subsections for 4.02-ae

Minimum sanction: Specific Probation; Maximum sanction: Suspension

- af. Public intoxication — visibly impaired behavior evidenced by poor motor skill coordination, slurred speech, or similar observable signs, that is attributable in part or in whole to the ingestion of alcohol or drugs.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- ag. Unauthorized disclosure of confidential records, tapes, information, or documents provided ancillary to any part of the student conduct process.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- ah. Use of skateboards, in-line skates, or similar devices on University property.

Minimum sanction: General Probation, forfeiture of the skateboard, in-line skates, or similar device, and restitution for damage; Maximum sanction: Suspension, forfeiture of the skateboard, in-line skates, or similar device, and restitution for damage

- ai. Possession of drug paraphernalia (included but not limited to pipe, scales, bong, blow tube, and roach holder) or alcohol paraphernalia (including but not limited to beer bongs and funnels, alcohol without liquid devices, kegs, beer balls, party balls, or similar alcohol containers).

Minimum sanction: General Probation; Maximum sanction: Expulsion

- aj. To play at any game of chance or skill for money or other stakes; to stake or risk money or anything of value on the outcome of a game or event involving chance; the pledge of a forfeit risked on some uncertain outcome, including, but not limited to, card games and athletic events, except as permitted by law.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- ak. Throwing of snowballs on University premises, throwing objects out of residence hall or other university windows, or throwing of any object at any unwilling participant.

Minimum sanction: Reprimand; Maximum sanction: Suspension

- al. Behavior or activities that endanger or may endanger the safety of oneself or others, including but not limited to driving under the influence, self-harm, and gestures of self-harm, and misuse of over-the-counter drugs.

Minimum sanction: General Probation; Maximum sanction: Expulsion

- am. Hazing — the intentional commission of an act, by an individual or a group, of physically abusing or harassing another person or creating a situation which produces physical harm or discomfort, severe emotional distress, embarrassment, or ridicule of another person.

Minimum sanction: Specific Probation; Maximum sanction: Expulsion

- an. Stalking — any behaviors or activities occurring on more than one occasion that place another person in reasonable fear or threaten his or her mental health and/or cause, or intend to cause, emotional distress. Such behaviors or activities may

include, but are not limited to, unwelcome communication of any type, including face-to-face, telephone calls, voice messages, electronic mail, written letters or notes; unwanted gifts, etc.; pursuing or following, or observing or surveillance.

Minimum sanction: Specific Probation; Maximum sanction: Expulsion

- ao. Smoking in a campus facility or within 50 feet of an entrance, exit, or air intake system.

Minimum sanction: Reprimand; Maximum sanction: Suspension

- ap. Operating, or riding as a passenger on, a bicycle on: 1) the Appalachian State University campus; 2) any public right-of-way on or adjacent to the campus; or 3) any University property open to the public or used by the public for pedestrian or vehicular purposes without wearing a helmet of good fit, fastened securely, and meeting one or more of the bicycle helmet standards (ANSI, Snell, ASTM, or CSA) listed in ASU Health and Safety Policy 17.

Minimum sanction: Reprimand; Maximum sanction: Suspension

- aq. Violation of the Code of Student Conduct while on General Probation.

Minimum sanction: Specific Probation; Maximum sanction: Expulsion

- ar. Violation of the Code of Student Conduct while on Specific Probation.

Minimum sanction: Suspension; Maximum sanction: Expulsion

- as. Violation of the Code of Student Conduct anytime subsequent to having been suspended from the University for violation of the Code of Student Conduct.

Minimum sanction: Two years suspension; Maximum sanction:

Expulsion

4.03 Misconduct for Group Living

To ensure that the on-campus living facilities of the University are educational, safe, and conducive to the academic and personal enrichment of all students, the University prohibits the following conduct:

- a. Violation of rules and regulations established by University Housing and/or the Residence Hall License and Contract Agreement including but not limited to: disruption of a residence hall through vandalism, excessive noise and/or practical jokes.
- b. Violating residence hall visitation policies by a member of the opposite sex remaining in a residence hall room after visitation, or unauthorized occupancy of a residence hall room by a member of the opposite sex or a member of the same sex without authorization, or to be present in unauthorized areas within residence halls.
- c. The use of open flames or combustible materials in a residence hall.
- d. Possession and use of appliances or items prohibited in the residence halls in violation of University and/or North Carolina state fire code regulations.
- e. Possession of pets of any kind in any University hall with the exception of animals biologically classified as osteichthyes (bony fish) that are maintained in a ten-gallon or less fish tank.
- f. Failure to control the conduct of one's guest(s) whose behavior violates provisions of the Code including, but not limited to, any activity or behavior that occurs in one's residence hall room, regardless of whether the resident is present or has knowledge of the behavior.
- g. Preventing fire doors from properly closing.
- h. Failure to use designated entrances/exits after residence hall closing hours.
- i. Unauthorized propping of any secured door.

For all violations of Section 4.03

Minimum sanction: Reprimand; Maximum sanction: Suspension

ARTICLE V SANCTIONS

A Conduct Review Officer or Conduct Board may implement any of the following sanctions, pursuant to the guidelines set forth in this Code.

- 5.01 Reprimand—is an official notification by the University that a student's behavior is unacceptable by University standards, and that the student needs to change this behavior.
- 5.02 General Probation—is an official disciplinary action by the University that removes the student from the presumption of good conduct into a period during which his or her conduct is under review by the University. This period of probation is intended to convey to the student that his or her behavior was unacceptable to the University and that any further violation of the Code shall result in the University taking more severe disciplinary action to bring the student's behavior into compliance with this Code.
 - a. In no case shall General Probation or a combination of probationary periods be for less than sixty academic days.
 - b. General Probation is recorded in the Office of Student Conduct.
 - c. If a student is found in violation of this Code while currently on General Probation, he or she must be placed on Specific Probation, Suspended from the University, or Expelled. General Probation may not be extended to a student who is currently on General Probation.
 - d. Refusal or failure to comply with the terms of General Probation, including but not limited to failure to attend any special program or pay an assigned fee, shall result in a student being placed on Specific Probation.
- 5.03 Specific Probation—is a period of close scrutiny of a student by the University to determine if that student should remain at the University. Such a period of probation is intended to convey to the student that his or her conduct is unacceptable by University standards and that any further violation of the Code shall result in a period of separation from the University or permanent Expulsion.
 - a. Specific Probation shall be imposed for a stated period of time but in no case will it be for less than sixty academic days.
 - b. Notice of Specific Probation shall be recorded in the student's official disciplinary record in the Office of Student Conduct.
 - c. A student who has been placed on Specific Probation may continue to participate in student activities but shall be ineligible to represent the University in any official function or leadership position (e.g., varsity athletics, student leadership position, cheerleader, standing committee chairperson, senator or officer in SGA, elected office in any recognized student organization). The Director of Student Conduct may remove this restriction after at least one regular semester.
 - d. A student found to have violated the Code of Student Conduct while he or she is currently on Specific Probation shall be suspended from the University unless there is a compelling reason not to take such action. Consideration will be given to the type of violation, the severity of the offense, and other factors that might be relevant to such special consideration. In such cases, the burden of proof shifts to the student who violated the Code to offer compelling reasons for him or her to remain.
 - e. Refusal or failure to comply with the terms of Specific Probation, including but not limited to failure to comply with drug testing, complete community service, attend any special program, or pay an assigned fee, shall result in suspension.

f. A student who has previously been on specific probation, but who is not currently on specific probation, who violates the Code of Student Conduct shall, generally, return to specific probation as a minimum sanction.

5.04 Suspension—is a disciplinary action by the University that severs the student's relationship with the University for a period of time. This action may be either immediate or delayed. During the period of suspension the student is denied the right to register for classes, attend classes, or to visit the University. The student is subject to arrest for trespassing should he or she be found on University property. Should the suspended student wish to return to the University, a letter requesting reinstatement must be submitted to the Director of Student Conduct.

- a. Notice of suspension shall be recorded in the student's official University transcript maintained by the University Registrar's Office, and a record of this suspension shall be kept by the college dean's office of the student's enrollment and in the Office of Student Conduct. Notice of this action will also be recorded in the North Carolina database of constituent schools.
- b. Suspension may be from a minimum of the remainder of the semester or summer term to any increment of time in semesters beyond that time; or suspension may be delayed until the end of a semester or summer term.
- c. Suspension may be indefinite with no date established for the student to return. A date at which time the student may request reinstatement can be established or may be contingent on a student fulfilling one or more stipulations (e.g. resolution of criminal matters pending in the courts).
- d. The notation of suspension shall be removed from a student's transcript after the suspension has been completed, provided that the student has completed all requirements of the suspension. In the case of suspension for an indefinite period of time, the notation of suspension shall be removed upon approval of the Director of Student Conduct.

5.05 Expulsion—is a statement to the student that he or she is unqualified to continue as a student at the University. This action severs the student's relationship with the University immediately and makes the student ineligible to be considered for reinstatement. The student is subject to arrest for trespassing should he or she be found on University property. Notice of this action is recorded in the Office of Student Conduct and is permanently recorded on the student's official academic transcript maintained by the University Registrar. Notice of this action will also be recorded in the North Carolina database of constituent schools. Expulsion is a permanent dismissal from the University, unless at a later date the Chancellor concludes on the basis of the former student's petition and any supporting documentation that he or she should be given a new opportunity to pursue higher education and that the notation of expulsion should be removed from the student's transcript. A student expelled from Appalachian State University who applies for admission to any other University of North Carolina System institution will not be eligible for admission at that institution until such time as he or she has had the disciplinary action of expulsion removed at Appalachian State University.

5.06 Community Service—A student may be required as a condition of probation (either general or specific) to perform in any one semester not more than 25 nor less than 10 community service hours, participate in a special program, and to perform other reasonable duties or assignments. This sanction is subject to review by the Office of Student Conduct.

- 5.07 Restitution—As a condition of disciplinary action, a student may be required to make restitution. This is considered to be the appropriate monetary reimbursement for misconduct which resulted in loss, damage, or actual expenses incurred by the University or an individual.
- 5.08 Service Fees—A service fee may be assessed for on campus alcohol or drug education/outreach. Any student found in violation of University alcohol or drug regulations shall be assessed \$100.00 plus any additional sanctions.
- 5.09 Residential Relocation—As a condition of disciplinary action, a student may be removed from a specific residence hall room.
- 5.10 Loss of University Housing Privileges — As a condition of disciplinary action, a student may lose housing privileges through temporary suspension or permanent expulsion from University housing. The Director of University Housing may evict any student whose behavior violates the provisions of the residence hall room license agreement.
- 5.11 Special Programs—As a condition of probation (either general or specific) a student may be required to participate in a special educational program(s) (e.g., alcohol education program or counseling) or be required to write a reflection or research paper or complete an online program.
- 5.12 Drug Testing—As a condition of probation, a student may be required to submit to random drug testing at the student's expense.
- 5.13 Ban from specified University property, facilities or events.
- 5.14 Restriction of contact with, or proximity to, other specified members of the University community, which may include faculty, staff, or students.

ARTICLE VI—CONDUCT POLICIES AND PROCEDURES

- 6.01 General Process for Addressing Allegations and Charges of Misconduct:
- a. Any member of the University may make an allegation of misconduct against a student. To be considered by the Office of Student Conduct, an allegation must be in writing, must include factual information supporting the allegation, and must be signed by the individual making the allegation. Official charges of misconduct under the Code of Student Conduct are brought only by the University.
 - b. The Director of Student Conduct or a Conduct Review Officer may choose not to proceed with an allegation or charge when, in his or her judgment; there is not sufficient information with which to proceed.
 - c. All allegations of charges of misconduct will be presented to students in writing. Students will be notified of the requirement to schedule an administrative review meeting. Notice of any hearing before a conduct board shall be in compliance with the timeframes set forth in Section 6.04. Official notice of charges may be either verbal or written, provided that written charges also are given within the required timeframes prior to a conduct board hearing regarding the charges.
 - d. A student accused of violating the Code of Student Conduct shall have the option

- of either an administrative review and decision by a Conduct Review Officer, or a hearing before a conduct board (see 6.03 and 6.04).
- e. Information provided through public electronic sources may be used in bringing allegations and determining responsibility for charges of misconduct and may be introduced as information during the hearing process.

6.02 University Housing Conduct System

The University has established the “University Housing Conduct System.” The purpose of this system is to allow University Housing staff to address behavior by students that impacts the residential environment. The University Housing Conduct System may be utilized to address violations of the Residence Hall License and Contract Agreement and less serious Code of Student Conduct violations. Housing staff implementing the University Housing Conduct System shall work in coordination with the Office of Student Conduct. The Director of the Office of Student Conduct shall determine which cases may be resolved within the University Housing Conduct System and which shall be referred to the Office of Student Conduct. Housing staff who are involved in conduct cases will utilize the processes set forth in this Code of Student Conduct.

6.03 Administrative Decision

- a. After being informed of the allegations and/or charges and his or her rights under the Code, including the right to a hearing, a student may voluntarily waive the right to a hearing and request an administrative decision by a conduct review officer.
- b. The Director or Assistant Director of Student Conduct may decline the student’s request for an administrative decision. If the student’s request is declined, the student shall be referred to a conduct board.
- c. For an administrative decision to be made, the student shall do the following:
1. waive his or her right to have the charge considered by a conduct board;
 2. accept responsibility for violations of the Code;
 3. agree to accept the sanction to be imposed.
- d. The Conduct Review Officer may recommend any sanction specified in the Code of Student Conduct.

6.04 Referral to a Conduct Board

- a. After informing a student of the charge(s) and his or her rights under the Code, the Director or Assistant Director of Student Conduct shall refer the student to a conduct board unless the student requests that the charge(s) be considered administratively pursuant to Section 6.03. The Director of Student Conduct may also refer any case directly to a conduct board without the option of an administrative review and decision.
- b. Based on the type of charge(s), an interview with the student, and other factors, the Director of Student Conduct will determine which of the two conduct boards, either the Student Conduct Board or the University Conduct Board; will consider the charge(s).
- c. Written notice of a hearing before a conduct board shall be provided to the student at least five calendar days prior to the hearing date in cases where the possible sanction is less than suspension or expulsion, and at least ten calendar days before the hearing in cases where the possible sanctions include suspension or expulsion.
- d. The Director of Student Conduct may postpone a conduct board hearing, provided

that any student whose hearing is postponed shall be given written notice of the new hearing date pursuant to Section 6.04 (c).

- e. An accused student may request one postponement of his or her conduct board hearing by making a request to the Director of Student Conduct; requests should be made at least 48 hours prior to a hearing and will generally only be granted in cases of serious student illness or family emergency or when a student has a scheduled exam that directly conflicts with the hearing.

6.05 Conduct Board Hearing Procedures

- a. In all cases where a conduct board considers if a student's conduct has violated the Code, a quorum of five (5) members must be present. To find a student in violation of the Code, a vote will be taken in a closed executive session of the members of the conduct board present. A vote of "in violation" by two-thirds of the members present, excluding the chairperson, shall be required to find a student in violation of the Code.
- b. The chairperson of a conduct board is delegated the authority to conduct hearings in a manner designed to effectively and efficiently elicit information needed for the board to make its decisions. This authority includes the right to limit the length of testimony of any witness or participant in the hearing if the testimony appears to be repetitious or irrelevant, and the right to remove any witness or participant who is unruly or disruptive to the hearing. The chairperson is charged with the responsibility, to conduct the hearing in a manner that will:
 1. protect the rights of the charged student(s) to a fundamentally fair process;
 2. protect the rights of the person bringing the allegation(s);
 3. ensure that the process set forth in this Code is followed and that all participants are treated with respect.
- c. Prior to considering the charges against the student, the chairperson of the conduct board shall:
 1. outline the procedures that the board will follow;
 2. announce that the conduct board is closed to the public;
 3. stress the importance of confidentiality of the proceedings;
 4. formally announce that the University is committed to the principle of fundamental fairness;
 5. announce that each student is presumed to be not in violation of any charge until proven otherwise;
 6. request that any board members with knowledge of the student or the situation recuse themselves.
- d. A decision by the conduct board to find the student in violation of this Code shall be based solely on the information presented at the hearing. Information of any past violation(s) may not be introduced or considered in deliberations regarding whether a student is in violation of the Code. If the student is found in violation of the charge(s), records of past violations will be introduced by the Director of Student Conduct, the Assistant Director of Student Conduct, or the Conduct Board Chairperson and will be considered by the conduct board in determining a sanction.
- e. All hearings will be recorded. The University retains the sole right to record hearings. No other recordings may be made of the hearings. Recordings of hearings may be destroyed three years after the final administrative decision has been made.
- f. All conduct board hearings are closed to the public. An accused student may invite up to three persons to be present as provided for in Article 6.07.

- g. A final administrative decision must be made within 45 days after the date of the hearing and must be transmitted to the student in writing within ten days of being made. The written decision shall include a brief summary of the information upon which the decision is based and shall specify the student's appeal rights.

6.06 Proof

- a. The burden of proof in a conduct board hearing rests with the University to provide sufficient witnesses and documentary evidence to establish the violation.
- b. The standard of proof used in a conduct board hearing for alleged violations under this Code is "a preponderance of evidence." This standard is defined as the weight of the evidence that leads the conduct board to believe that the alleged misconduct is more probable to have been committed than not.

6.07 Rights of an Accused Student During a Hearing

Students charged with misconduct who appear before a conduct board shall have the following rights:

- a. Students have the right to appear alone, with the Student Counselor, or with any one other person of their choice to advise and assist them. The person chosen to advise or assist a student may be a relative, a fellow student, a friend, a teacher, or any other person other than an attorney. In addition to an advisor, a student may be accompanied by not more than two other persons. One of these persons may be an attorney; however, these persons shall have no official status before the conduct board, are merely observers of the proceedings, and may not address the conduct board nor conduct examination or cross-examination of any witnesses.
- b. A student may request that a member of a conduct board be excluded from the hearing. Such challenges shall be made immediately after the introduction of members of the conduct board and shall require justification. These requests shall be made to the chairperson of the conduct board privately by asking for a conference for this purpose. The chairperson's decision is final, and cannot be appealed.
- c. Accused students are entitled to present information on their behalf.
- d. Accused students are to be afforded the right not to speak or to answer any questions if such testimony or answers would tend to establish against them a violation of this Code, University departmental regulations, or a state or federal law. When a student refuses to speak, therefore avoiding questioning, he or she relinquishes the right to make a written or verbal statement at the end of the hearing. However, a summation of the relevant facts of the matter under adjudication may be provided by the student's advisor or representative providing that the summation is not a substitute for the statement the student declined to provide.
- e. Accused students are entitled to be confronted in some manner by the person or persons alleging the charge or charges against them.
- f. Accused students shall have the opportunity to ask reasonable questions verbally of any witnesses appearing at a hearing and providing information against them, or it can be done in writing through the Chairperson or Student Counselor. This is not intended to preclude the introduction of written statements, previously written memoranda, letters, or other written material. When practical, the opportunity for questioning should be afforded. However, other evidence may be introduced at a hearing even though the writer is not present for questioning.

- Members of the conduct board shall attach whatever weight or significance to these documents or statements they deem appropriate.
- g. Accused students are entitled to have the evidence of a prior formal charge or record of violating the Code of Student Conduct excluded as information during the conduct board's deliberation concerning the determination of violating or not violating the Code.
 - h. Accused students who have a disability on file with the Appalachian State University Office of Disability Services are entitled to have all requirements of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act met.

6.08 Rights of a Person Bringing an Allegation During a Hearing

- a. Students have the right to appear alone, with the Student Conduct Advocate, or with any one other person of their choice to advise and assist them. The person chosen to advise or assist a student may be a relative, a fellow student, a friend, a teacher, or any other person other than an attorney. In addition to an advisor, a student may be accompanied by not more than two other persons. One of these persons may be an attorney; however, these persons shall have no official status before the conduct board, are merely observers of the proceedings, and may not address the conduct board nor question anyone providing information. In a case of harassment based on sex and/or a sexual offense, the University encourages the use of our Sexual Assault Prevention Coordinator.
- b. The right to request that a member of the Conduct Board be excluded from a hearing. Such challenges shall be made immediately after the introduction of members of the conduct board and shall require justification. These requests shall be made to the chairperson of the conduct board privately by asking for a conference for this purpose. The chairperson's decision is final and cannot be appealed.
- c. The right to present information on his or her behalf.
- d. The right not to speak or to answer any questions if such testimony or answers would tend to establish against them a violation of this Code, University departmental regulations, or a state or federal law. When a student refuses to speak, therefore avoiding questioning, he or she relinquishes the right to make a written or verbal statement at the end of the hearing. However, a summation of the relevant facts of the matter under adjudication may be provided by the student's advisor or representative providing that the summation is not a substitute for the statement the student declined to provide.
- e. In the case of an alleged victim of a crime of violence, the right to be present (physically or by other means) during the fact-finding phase of the hearing and the right to ask reasonable questions of any witness, including the accused. This can be done verbally, or it can be done in writing through the Chairperson or the Student Conduct Advocate. This is not intended to preclude the introduction of written statements, previously written memoranda, letters, or other written material. When practical, the opportunity for questioning should be afforded. However, other evidence may be introduced at a hearing even though the writer is not present for questioning. Members of the conduct board shall attach whatever weight or significance to the documents or statement they deem appropriate.
- f. In the case of an alleged victim of a crime of violence, the right to provide a written or oral impact statement (see definition, Section 2.08), provided that such statement shall only be considered during the sanctioning phase of a hearing.
- g. The right to have the evidence of a prior formal charge or record of violating

- the Code of Student Conduct excluded as evidence during the conduct board's deliberation concerning the determination of violating or not violating the Code.
- h. A student bringing an allegation forward that has a disability on file with the Appalachian State University Office of Disability Services is entitled to have all requirements of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act met.

- 6.09 **Rights of a Student Found in Violation of the Code of Student Conduct**
- a. To have a sanction imposed that is based on the guidelines set forth in this Code;
 - b. To have supervised access to a recording of the hearing proceedings;
 - c. To have the outcome of an administrative review or conduct board decision kept confidential; however, the Vice Chancellor for Student Development or his or her designee may (1) disclose to the complainant any information contained in records concerning a disciplinary proceeding to the extent such information is directly related to the complainant; (2) disclose disciplinary action taken against a student to teachers and other University officials on a need-to-know basis; and (3) disclose to an alleged victim of a crime of violence, the final results of a disciplinary proceeding.

6.10 **In Absentia Consideration of Charges**

- a. A student who is notified in writing of allegations of misconduct under the Code through his or her Appalnet account or ASU Post Office box or by special delivery and who fails to respond within seven (7) working days shall have waived his or her right to a hearing and will be considered to have entered a plea of being in violation of the charge(s) specified. The Director or Assistant Director of Student Conduct shall recommend a sanction consistent with the guidelines established in Article VI. The Director of Student Conduct may withhold the student's future registration at the University until such time as the Director or Assistant Director of Student Conduct has had an opportunity to interview and counsel the student. The Director or Assistant Director of Student Conduct may elect to alter the sanction, either greater or lesser, pending this interview.
- b. If the Director or Assistant Director of Student Conduct determines that the student's failure to appear was not for the purpose of defeating the process of this Code, he or she may rescind the disciplinary action and alter the sanction imposed, or refer a student to a conduct board to have the allegation heard on its merits.
- c. A student who fails to attend his or her scheduled hearing with the University Conduct Board or the Student Conduct Board shall have the case adjudicated by the board in the student's absence.

6.11 **Records**

- a. Pertinent records, exhibits, and written statements may be accepted as information for consideration by a conduct board or in an administrative decision at the discretion of the conduct board or conduct review officer, and shall be considered the property of the University upon such submission.
- b. There shall be made at every conduct board hearing a recording of all hearings. The recording shall be the property of the University and may be destroyed three years after the final administrative decision has been made.
- c. All disciplinary records of the University are confidential and shall not be released without the student's consent; except the University may disclose (1) to the complainant, any information contained in records concerning a disciplinary proceeding to the extent such information is directly related to the complainant.

- ant, (2) to such persons functioning in their official University capacity on a need-to-know basis and (3) to an alleged victim of misconduct that constitutes a crime of violence (as defined by the FBI's UCR program) the final results of any disciplinary proceeding conducted against the person accused of misconduct. Disclosures of information to complainants or victims pursuant to Section 6.11C (1) or (3) shall be made on the condition that the recipient of such information shall maintain such information as confidential. Failure to maintain the confidentiality of such information shall constitute a violation of Section 4.02ag of the Code of Student Conduct. However, an alleged victim of a sex offense shall not be required to maintain such information as confidential.
- d. All disciplinary records are the property of the University. They are maintained by the Director of Student Conduct in the Division of Student Development. Disciplinary records include both file copies and computer records. Both are maintained for a minimum of seven years. The University reserves the right to maintain disciplinary records for any length of time in excess of seven years, or to destroy all or some of these records after seven years. Suspension and expulsions records are not destroyed and are maintained indefinitely by the University.
 - e. As required by the State of North Carolina, all suspended and expelled students will be added to a database comprised of North Carolina constituent schools. Interim suspensions will be added to the database and remain until a resolution indicates otherwise.
 - f. The Office of Student Conduct has the authority to notify the parent(s) or legal guardian(s) of students under the age of 21 (who are claimed as dependents for income tax purposes) of any drug or alcohol related violation of the Code of Student Conduct. It is standard practice to notify parents/ guardians of any violation involving the use, possession, sale, or distribution of drugs, of second and subsequent alcohol-related violations, and of serious first-time alcohol violations. Serious first time violations include but are not limited to alco-sensor readings greater than .14, arrest, dwi and hospitalization.

ARTICLE VII—APPELLATE PROCEDURE

- 7.01 Purpose of an Appeal
The purpose of the appeal procedure is to provide the opportunity for questioning the appropriateness of actions or recommendations growing out of a conduct board hearing. Appeals are not available to the complainant unless the alleged violation concerns a crime of violence or harassment based on sex. It is not the purpose of the appeal procedure to provide for a new hearing at a higher administrative level.
- 7.02 Guidelines for Making an Appeal
The following guidelines for making an appeal are established:
 - a. Appeals are delivered to the Director of Student Conduct for processing in the form of a memorandum addressed to the Vice Chancellor for Student Development.
 - b. The memorandum shall clearly state the specific actions or recommendations that are being appealed, (e.g., the findings of a conduct board, the recommended sanctions recommended by the conduct board, and both the findings and the recommendations of a conduct board).

- c. The memorandum should clearly present specific reasons, grounds, or justifications to support the appeal.
- d. The memorandum shall be prepared and signed by the person (student) who is seeking a change in the decision. No appeals will be accepted by a person acting as the agent of the student or in some other capacity on behalf of the student.

7.03 Appellate Process

- a. Written appeals are to be delivered to the Office of Student Conduct within five (5) business days after written notice of the conduct board decision has been transmitted to the student. In unusual circumstances, an extension of time may be granted by the Director of Student Conduct. Such a request should be made in writing and approved by the Director of Student Conduct.
- b. Appeals of actions by a Conduct Review Officer shall be limited to those based on an assertion of failure to follow the provisions established in Article 7.03 or other procedural errors. Appeals shall be in writing and shall follow the guidelines set forth in Section 8.02 and timeframe set forth in Section 8.03(a), with the appeal time being counted from the date on which a case is resolved administratively.
- c. The Director of Student Conduct shall deliver all appeals to the Vice Chancellor for Student Development.
- d. The Vice Chancellor for Student Development may rule on the appeal upon receipt, or he or she may appoint a committee to recommend to him or her action to take on the appeal.
- e. There is no provision for the person bringing the charge (complainant) to file an appeal, except allegations of crimes of violence and harassment based on sex. In these circumstances, the person bringing the allegation may file an appeal with the Vice Chancellor for Student Development when there is clear and convincing new evidence or a gross procedural error.

7.04 Guidelines for Ruling on Appeals

- a. Normally, an appeal concerning a decision of “in violation” or “not in violation” by a conduct board will be successful only if clear and convincing new evidence is presented in the appeal. A successful appeal based on new evidence may result in the case being referred to a conduct board for a re-hearing. The Vice Chancellor for Student Development also may accept the appeal and dismiss the charge.
- b. An appeal seeking to modify a sanction recommended by a conduct board will be successful only if clear and convincing evidence is advanced to show that the sanction does not meet the test of reasonableness and fairness, it is demonstrated that there was a gross procedural error that prevented a fair hearing, or there is new information concerning the alleged misconduct. A successful appeal will normally result in the Vice Chancellor for Student Development modifying or rescinding the sanction. In modifying sanctions, the Vice Chancellor for Student Development will utilize the guidelines set forth in Article VI; however, he or she may modify the sanction in any form, including increasing the sanction, or dismissing the charge altogether.
- c. A successful appeal of a case that was considered administratively by a Conduct Review Officer will usually result in the case being referred to a conduct board to be considered on its merits.
- d. Subsequent to a decision by the Vice Chancellor for Student Development, any further appellate opportunities shall be governed by the Code of the University of North Carolina.

ARTICLE VIII—INTERIM/SUMMARY SUSPENSION

8.01 Interim/Summary Suspension

In special circumstances, the Director of the Office of Student Conduct or other authorized university official ("Director"), in consultation with the Vice Chancellor for Student Development, may summarily suspend a student accused of violating this Code and require that he or she immediately leave the University campus.

8.02 Circumstances Where Interim/Summary Suspension May Apply

Summary suspension shall be exercised only when the "Director" or designee reasonably believes that the student's alleged act of misconduct is of such a serious nature that his or her continued presence at the University is potentially dangerous to the health and safety of the student, the University community, its property, or its educational mission. Such acts of misconduct include, but are not limited to, all acts of assault and/or battery with any type of weapon or instrument; gross sexual misconduct; rape; armed robbery; larson; the manufacture, distribution, and/or possession of any incendiary or explosive device; a violation of University policies on illegal or abusive use of alcohol and other drugs, including, but not limited to, the manufacture or sale of controlled substance; and other acts which might endanger persons or property.

8.03 Procedures for Interim/Summary Suspension

The Director of the Office of Student Conduct, in conjunction with appropriate University administrators, may suspend or affect a change in residence of a student for an interim period pending disciplinary proceedings or medical evaluation, such interim suspension to become immediately effective without prior notice whenever there is evidence that the continued presence of the student on the University campus and/or in University Housing poses a substantial threat:

- a. to self or others; or
- b. of causing significant property damage; or
- c. to the stability and continuance of normal University functions; or
- d. of directly and substantially impeding the lawful activities of others.

8.04 A student accused of violating University disciplinary regulations may be diverted from the regular disciplinary process and suspended on an interim basis if the Director reasonably believes that the student

- a. lacks the capacity to respond to pending disciplinary charges; or
- b. did no know the nature or wrongfulness of the conduct at the time of the alleged offense; or
- c. poses a danger to self or others.

The regular disciplinary process shall be resumed upon the Director's determination that the student has capacity to respond to pending disciplinary charges and understands the nature of the alleged misconduct, and/or the Director receives credible, independent evidence (e.g., certification by a licensed mental health professional acceptable to the University) that the student does not pose a danger to self or others.

8.05 Interim/Summary Suspension Review

Students subject to interim/summary suspension shall be accorded an informal review before the Vice Chancellor for Student Development, or that official's designee.

The Director or a representative from the Office of Student Conduct may observe and answer questions from the Vice Chancellor or official designee.

The following procedures will be applicable:

- a. Students will be informed of the time, date, and location of the informal hearing, in writing, either by a confirmed receipt by email, personal delivery certified mail, at least two University business days in advance. This notice period may be waived in writing by the student. The student will remain suspended on an interim basis pending a decision following the informal review, but will be allowed to enter upon the campus to attend the hearing, or for other necessary purposes, as authorized in writing by the Director.
- b. The interim suspension order may require the student to be evaluated by a licensed psychiatrist or psychologist acceptable to the University. In those cases, the informal hearing will be held within five (5) University business days after the Director receives a written evaluation.
- c. The entire disciplinary case file, including psychiatric or ASU Counseling Center recommendations and the names of prospective witnesses, will be available for inspection by the student in the Office of Student Conduct during normal business hours.
- d. The informal hearing shall be conversational and non-adversarial. Formal rules of evidence will not apply. The Vice Chancellor or his or her designee shall exercise control over the proceedings to achieve the orderly completion of the hearing. Any person who disrupts the hearing may be excluded.
- e. The student may choose to be assisted by an observer and a licensed psychologist or psychiatrist, or, in lieu of a licensed psychologist or psychiatrist, by a member of the faculty or staff of the University. The student may also be accompanied by legal counsel, although the role of counsel will be limited to observing and providing legal advice to the student in a manner that does not interfere with the review.
- f. Those assisting the student, except for legal counsel, will be given reasonable time to ask relevant questions of any individual appearing at the informal hearing, as well as to present relevant information.
- g. The student will be expected to respond to questions asked by the Vice Chancellor for Student Development or that official's designee. If a student refuses to answer, the Vice Chancellor for Student Development or that official's designee may draw a negative inference from the refusal, and this may result in continued or indefinite suspension from the University.
- h. The informal review may be conducted in the absence of a student who fails to appear after proper notice.
- i. Where a psychiatric or psychological evaluation is required in the interim suspension order, the licensed professional who prepared the evaluation or ASU Counseling Center staff member who prepared the recommendation may appear at the informal hearing and respond to relevant questions, upon request of any party, if the Vice Chancellor for Student Development or his or her designee determines that such participation is essential to the resolution of this review. In lieu of appearance, the psychiatrist, psychologist, or counselor may be asked to provide a written statement. The Vice Chancellor for Student Development or that official's designee will ask the student to release to the individuals present any medical and/or mental health information relevant to the case.
- j. The informal hearing shall be recorded by the Vice Chancellor for Student Development or his or her designee. The record will be kept with the pertinent case file as long as the case file is maintained by the University.

- k. A written decision shall be rendered by the Vice Chancellor for Student Development or his or her designee within five (5) University business days after the completion of the informal review. The written decision will contain a statement of reasons for any determination to continue interim suspension.
- l. The decision of the Vice Chancellor for Student Development or his or her designee regarding interim suspension shall be final and conclusive, and not subject to appeal.
- m. Campus disciplinary proceedings shall be scheduled as soon as practical following the interim/summary suspension, unless the student requests a deferral until after any criminal proceedings or medical treatments. A request for deferral must be filed with the Director of the Office of Student Conduct, within two (2) University business days following the student's receipt of the initial interim suspension order or the informal hearing decision by the Vice Chancellor for Student Development or his or her designee. In reviewing the request the Director shall consider the following:
 - i. Whether the interests of the University will be served by postponing the campus proceedings until after the criminal process or medical treatment has been resolved.
 - ii. The amount of time the resolution might take.
 - iii. The likelihood that witnesses necessary to provide for a full and fair hearing on campus will or will not be available at a later date.

8.06 Interim/Summary Suspension Status

- a. Interim or Summary students will be added to the University of North Carolina Systems suspension/expulsion database until the case has been heard and a decision rendered. At that time, the student's information will be modified to indicate the student's current enrollment status.
- b. A student who has been suspended on an interim or summary basis shall be ineligible to attend classes or to be present on property owned or controlled by the University while the suspension remains in effect, except by authority of the Director of Student Conduct or his or her designee for purposes of participating in a hearing. The student's summary suspension status shall not be used as evidence in any conduct hearing.

SUMMARY OF DRUG AND ALCOHOL OUTCOMES

Controlled Substance	Type of Offense	Minimum Sanction
<u>Examples:</u> Marijuana, Synthetic Marijuana, Pentobarbitol, Codeine, and other Schedule III-VI Substances	A. Possession/Use First Offense B. Possession/Use Second and Subsequent Offense C. Offense involving illegal manufacture, sale, delivery or possession with intent to manufacture, sell, deliver any controlled (scheduled III-VI) substance	<ul style="list-style-type: none"> • Specific Probation (5.03) • Drug Education & Outreach through ASU Wellness Center, (5.11) • Community Service (5.06) • Consent to random drug testing 5.12) • Service Fee (\$100.00) (5.08) • Notification of parent/guardian (6.11-Records-not a sanction/administrative function) <ul style="list-style-type: none"> • Progressively more severe penalties shall be imposed, including expulsion (4.02e) <ul style="list-style-type: none"> • First Offense~ Suspension for one semester (5.04) • Second Offense~ Expulsion (5.05)
<u>Examples:</u> Heroin, Mescaline, LSD, Opium, Adderall w/out a prescription, Cocaine, Amphetamines, Methaqualone, or any related Schedule I - II substance	A. Possession/Use B. Illegal manufacture, sale, delivery, or possession with intent to manufacture, sell, deliver any schedule I + II controlled substance	<ul style="list-style-type: none"> • Suspension (4.01f, 5.04) <ul style="list-style-type: none"> • Expulsion (4.01d, 5.05)

Resources on our alcohol and drug policy refer to the following:

- UNC Policy on Illegal Substances (1988)
- Policy & Procedure of Illegal or Abusive Use of Alcohol and Other Drugs, ASU.
- ASU-Code of Student Conduct {Sections 4.01d,e,f and 4.02e; 5.03, 5.04, 5.05, 5.06, & 5.08}
- North Carolina General Statutes

SUMMARY OF DRUG AND ALCOHOL OUTCOMES

Substance	Type of Offense	Minimum Sanction
Alcohol	A. Possession/Use First Offense	<ul style="list-style-type: none"> • General Probation (5.02) • BASIC(5.11) • Service fee (\$100.00) (5.08)
	B. Possession/Use Second Offense	<ul style="list-style-type: none"> • Specific Probation (5.03) • BASIC (5.11) • Community Service (5.06) • Service fee (\$100.00) (5.08) • Notification of Parent/Guardian (6.11, f & g-Records-not a sanction/administrative function)
	C. Possession/Use Third Offense	<ul style="list-style-type: none"> • Suspension (5.04)

- A Conduct Review Officer or Conduct Board has the discretion to issue appropriate sanctions based on individual circumstances. The severity of the violation(s) will determine the level and range of a sanctions.

See Appendix A for Amnesty policy

Appendix A:

Alcohol Medical Amnesty Policy

Purpose:

The purpose of the policy is to remove barriers and increase the likelihood that students who require emergency medical assistance as a result of high risk alcohol consumption will receive such assistance. This policy will provide an opportunity for a caring intervention that will not result in a disciplinary action from the Office of Student Conduct.

The Medical Alcohol Amnesty Policy is a way for Appalachian State University to reduce the harmful consequences caused by the abuse of alcohol. This policy is designed to promote responsible decisions when students are faced with medical emergencies requiring emergency medical attention. Emergency medical attention is defined as admittance to a hospital. This policy is in place to encourage students to not fear seeking the help of others when faced with a high risk alcohol intervention.

Students who qualify for medical amnesty will not receive any sanctions from the Office of Student Conduct and no documentation will be made in the student's educational record.

Appalachian State University does not condone under-aged drinking but does recognize that it is occurring and has implemented this policy in hopes that it will encourage more students to make the appropriate decision to call for help when emergency medical attention is needed.

Qualifying for Medical Amnesty:

There are three categories for who qualifies for medical amnesty and what is required of them for it to be granted. All categories apply to both on-campus and off-campus in regard to Student Conduct allegations. **For the policy to apply, either the person in need of emergency medical attention, other individuals present, or a club/ organization must request assistance.** The three categories are described below:

Persons in need of Emergency Medical Attention:

Students who receive emergency medical attention and are hospitalized directly related to the consumption or use of alcohol may be eligible to receive medical amnesty. Students will be referred to the Office of Student Conduct and if the students qualify for medical amnesty, no disciplinary actions will be issued from the Office of Student Conduct. Students may be referred to additional resources on our campus and will be required to follow through with the requirements in order to receive amnesty, such as meeting with our Substance Awareness Coordinator within a short time after being hospitalized. The Office of Student Conduct has the authority to notify the parent(s) or legal guardian(s) of students under the age of 21 (who are claimed as dependents for income tax purposes) who receive medical amnesty of the situation which has triggered the use of the medical amnesty policy. Students who receive emergency medical attention may be granted medical amnesty only once while enrolled at Appalachian State University. Any subsequent violation will result in a referral to Student Conduct.

Other Individuals Present:

Students who help seek emergency assistance on behalf of persons experiencing alcohol related emergencies or lend a helping hand to the emergency situation are eligible to receive amnesty. Students may or may not be referred to the Office of Student Conduct. If students are referred, they may be granted amnesty and will not receive any disciplinary actions from the Office of Student Conduct. Students may be required to participate in an appropriate educational program or referred to additional resources on our campus in order to receive amnesty. In order to encourage students to be proactive in helping others, the University does not limit the number of times a student can seek amnesty while assisting others during an alcohol-related emergency.

Clubs/Organizations:

A representative of a university recognized club or organization hosting an event is required to seek medical assistance in a medical emergency to be eligible for medical amnesty as it applies to clubs/organizations. Representatives from the organization may be required to meet with the Office of Student Conduct or the Director for the Center for Student Involvement and Leadership. Clubs/organizations that qualify for medical amnesty will not be charged or sanctioned for violations of the University's alcohol-related policies, and the incident will not be noted on the club/organization's record. Organizations may be required to participate or organize an appropriate educational program to the organization and its members. Medical amnesty for a club/organization is granted to the club/organization only. Members of the organization must qualify for medical amnesty as described previously. Clubs/organizations may only be granted medical amnesty once per academic school year and only for appropriately recognized events of their organization.

Limitations of Medical Amnesty:

Medical amnesty applies to incidents that require emergency medical attention, and the student is taken to the hospital directly related to the consumption or use of alcohol. The policy does not apply to any type of drug related behavior including use, possession, or distribution. Additionally, the policy does not apply to other prohibited conduct, such as, but not limited to assault, theft, driving while impaired, property damage etc. If other prohibited conduct occurs, the student(s) will be held responsible by the University and the Office of Student Conduct for those violations.

Nothing in this policy shall prevent an individual who has enforcement obligations under state or federal law to report, charge, or take other action related to the possible criminal prosecution of any student.

Appendix B:

The Digital Millennium Copyright Act (DMCA), passed in 1998, requires a University to aid in the prevention of online copyright infringement as an internet service provider:

Copyright owners have hired companies to search file sharing programs and locate IP addresses of computers sharing and or downloading files illegally. In the event the IP address is a campus address, the Appalachian State University (ASU) Information Technology Services (ITS) is informed and required to “take down” the offending computer. People utilizing the university network are not anonymous and illegal file sharing activity can be tracked.

Essentially it is illegal to have any copyrighted material on your computer that you do not own. It is also important to note that you cannot share any file to which you do not have the legal right.

Copyright law currently allows the court to set fines between \$750 and \$150,000 per copyright infringement. While most of these cases are settled out of court, some of these settlement agreements have been in excess of \$10,000.

Information technology Services (ITS) has automated the process for a DMCA take down notice. The notice goes directly to the user identified by the ASU network registration system, and automatically removes the computer from the network.

If the complaint is true, you must certify that the infringing content has been removed from the computer. If you believe the complaint is false, you may contact the person or business that originated the notice (e.g. RIAA, MPA etc), not Appalachian State University.

In response to DMCA allegations, Appalachian has developed a graduated response. Only on a third incident will a report be sent to the Office of Student Conduct.

- a) A first DMCA complaint will result in a warning and the viewing of an educational video on line.
- b) A second DMCA complaint, the student must attend a workshop and loses internet access for ten academic days.
- c) A third or more offense, the student will be referred to the Office of Student Conduct, will lose access for minimally one semester (80 academic days) and will be placed on probation.

DMCA violations constitute an infraction against our Acceptable Use Policy for computing at Appalachian State University. For more information, visit: <http://www2.acs.appstate.edu/computerpolicy.htm>.

Part II

Appalachian State University

Academic Integrity Code

2011–2012

Adopted May 21, 2001
Revised July 2008

I. Introduction

Appalachian State University's Academic Integrity Code is designed to create an atmosphere of trust, respect, fairness, honesty, and responsibility. The Academic Integrity Code outlines "user-friendly" procedures and mechanisms for resolving alleged violations of academic integrity. The Academic Integrity Code is the result of cooperation among Appalachian's faculty, students, and administrators, and promotes a campus dialogue about academic integrity. All members of the Appalachian State University community are responsible for promoting an ethical learning environment.

II. The Academic Integrity Code

Students attending Appalachian State University agree to abide by the following Code:

- Students will not lie, cheat, or steal to gain academic advantage.
- Students will oppose every instance of academic dishonesty.

Students shall agree to abide by the Academic Integrity Code when submitting the admission application.

III. The Honor Pledge

The Honor Pledge is a cornerstone of the Appalachian State University's Academic Integrity Code and serves as a reminder of the University's commitment to academic integrity. No Appalachian student shall unfairly further their own academic performance.

Students attending Appalachian State University pledge:

"I pledge on my honor that I have not violated the Appalachian State University Academic Integrity Code."

IV. Academic Integrity Code Violations

Violations of the Academic Integrity Code will be handled on a case-by-case basis. Faculty should address incidents as possible Academic Integrity Code violations only when, in their professional judgment, such violations were intentional on the part of the student. The following is a list of violations of the Academic Integrity Code. This list is not exhaustive; however, its terms are broad enough to encompass most potential Code violations.

- Lying. False academic information in any form, regardless of communication method (e.g. including email or other electronic communication).
- Cheating. The use of fraud or deceit to gain an advantage in academic endeavors, regardless of delivery methods (e.g. face-to-face, online, or via distance education). Examples of cheating include but are not limited to fraud, deception, impermissible communication of information, copying, falsifying data, unauthorized use or possession of study aids, memoranda, books, data, or other information, for the purpose of unfairly manipulating academic materials.
- Plagiarism. Presenting the words or ideas of another as one's own work or ideas. All directly quoted material must be properly cited. Plagiarism includes but is not limited to borrowing, downloading, cutting and pasting, and paraphrasing without acknowledgement, including from online sources, or allowing a person's academic work to be submitted as another's work.

- Unauthorized Assistance. Giving or receiving assistance not specifically permitted by an instructor. (Examples: see under cheating)
- Stealing of Academic Materials. The act of taking academic materials, without an instructor's or student's consent, for the purpose of gaining an advantage over other students. This includes but is not limited to stealing or attempted stealing of notes, papers, books, library materials, tests, answer keys, computer programs, or any electronic devices.
- Multiple Submission without an Instructor's Consent. Submitting the same work more than once without permission from all faculty involved.
- Assisting Code Violations. Helping another student violate the Code. Examples of assisting code violations include but are not limited to allowing another student to copy work, provide answers to questions appearing on assignments, quizzes, or exams, unauthorized collaboration, and taking an exam for another student.

V. Roles of the University Community

A. Faculty

Faculty members are responsible for educating students about academic integrity by placing a statement about the Academic Integrity Code on class syllabi. Further, faculty members are encouraged to limit opportunities for dishonest behavior. Several strategies for reducing Academic Integrity Code violations are listed below. Faculty members may:

- Lead discussions about academic integrity during class.
- Create multiple versions of quizzes and exams.
- Proctor quizzes and exams.
- Provide a space for students to reaffirm the Academic Integrity Honor Pledge (abbreviation: HP) on assignments, quizzes, and exams.
- Contact the Office of Student Conduct in all appropriate cases of academic dishonesty.
- Include a statement about the Code of Student Conduct and Academic Integrity Code (with Office of Student Conduct website address) on syllabi.
- Use current events to illustrate and discuss integrity issues.

B. Students

Students are responsible for completing their own work on assignments, quizzes, and tests and for discouraging their peers from violating the Academic Integrity Code. When instructed to do so by a faculty member, students are required to include the Academic Integrity Honor Pledge (or an abbreviated form of it) on assignments, quizzes, and exams. Further, students may:

- Report all incidents of academic dishonesty to the Office of Student Conduct.
- Inform the appropriate persons when witnessing academic dishonesty.
- Participate in discussions about academic integrity.
- Challenge their peers to uphold academic honesty.

C. Administration

Appalachian State University's administration provides support for the Academic Integrity Code through the activities described in Section VI.

VI. Administration of the Code

A. Violations

Alleged Academic Integrity Code violations must be reported to the Office of Student Conduct if the faculty member proposes that a sanction, as defined in Section VIII, be imposed on the student. The Director of Student Conduct or his or her designee will explain all available options to the faculty member and student involved in the alleged violation. Cases in which the faculty member proposes to take no action beyond requiring the student to repeat the assignment may be resolved informally between the faculty member and the student without being brought before the Office of Student Conduct or the Academic Integrity Board (AIB). In such cases, however, the faculty member must utilize the form entitled "Proposed Requirement That You Repeat Assignment; Notification of Due Process Rights." This requires the student to affirm in writing that he/she is aware of his/her option to refer the issue to Student Conduct but chooses the opportunity to repeat the assignment instead. The faculty member should provide one copy of this written statement to the student and retain the original in the faculty member's files.

A student that has an alleged violation of the Academic Integrity Code is prohibited from withdrawing from the course. Should a student withdraw from the class prior to the accusation and/or resolution, the mark of "w" will be considered temporary pending the final resolution of the case. If a student is found responsible for an Academic Integrity violation and receives a lower or failing grade in a course for violating the Academic Integrity Code that course cannot be retroactively dropped.

1. Resolution by Consent Without Resort to Academic Integrity Code Formal Processes

Academic Integrity Code violations may be resolved by consent between the student and the faculty member without resort to the formal processes of the Academic Integrity Code, pursuant to this Section VI.A.1., or such violations must be reported to the Office of Student Conduct as provided in Section VI.A.2, below. If the faculty member proposes to resolve the violation by consent by imposing one of the sanctions specified in Section VIII.A., the faculty member must do so utilizing the form entitled "Notification of Proposed Imposition of Sanction for Academic Integrity Violation; Notification of Due Process Rights (Notification)." A faculty member may not impose sanctions to resolve a violation by consent pursuant to this Section VI.A.1 without utilizing the Notification form. If the student decides to resolve the violation pursuant to this Section VI.A.1, the student must sign the form, and the faculty member must make a copy of the form for the student and retain the original for at least five years. A copy is also to be transmitted to the Office of Student Conduct and kept on file there for at least five years.

2. Reporting Violations

Academic Integrity Code violations not resolved by consent pursuant to this Section VI.A.1., must be reported to the Office of Student Conduct if the faculty member proposes that one or more sanctions (as described in Section VIII) be imposed. The Director of Student Conduct will explain all available options to the faculty member and student involved in the alleged violation.

B. Review Officer

The Director of Student Conduct serves as the review officer or, as may be necessary, appoints a member of the AIB to act in this capacity. An AIB member serving as a review officer in a given case may not vote in a hearing on it. The responsibilities of the review officer include:

- Investigating all reported incidents of academic dishonesty.
- Advising the parties involved in hearings.
- Handling all outside correspondence.
- Conducting and reporting on all faculty/student resolution processes.
- Preparing written statements for the hearing process.
- Forwarding all appeals to the Provost or his or her designee for a decision.

C. Faculty/Student Resolution Process

All first time offenses may be handled in the faculty/student resolution process. Written notice of the resolution process must be mailed to the faculty member and the student involved at least seven (7) business days in advance of a resolution process meeting. The review officer facilitates and records the meeting's outcome. The faculty member and the accused student must agree upon one of the sanctions to decide the case in this phase or determine that there was not an intentional violation of the Academic Integrity Code. If agreement is reached, the faculty member, student, and hearing officer sign a standard form stating the terms of the resolution. A copy of the resolution form is retained in the Office of Student Conduct until the student leaves the University. If the faculty member and student do not agree upon a resolution, the case is referred to the AIB for a hearing. All decisions agreed to in the resolution phase are final and cannot be appealed. Either the faculty member or student may waive their right to the resolution process. If a faculty member or student does not wish to participate in the resolution process, the case is referred to the AIB for a hearing. Faculty members may re-enter the process during the hearing as a complainant or witness.

D. Hearings

Proceedings under the Academic Integrity Code shall be consistent with the provisions of the AIB by-laws. First offenses may be resolved between the student and the faculty member; a record is then maintained in the Office of Student Conduct. All second offenses are decided through an AIB hearing. The Chairperson of the AIB presides over the hearing. Seven AIB members constitute a quorum. The AIB's final decision is made by a majority vote. The rules governing AIB hearings include:

- Notification of the hearing date and the specific charges of academic dishonesty, including an outline of the information to be introduced, are mailed to the accused student at least five (5) academic days, including final examination days, in advance.
- The burden of proof is on the faculty member and/or student bringing forth the charges. The Office of Student Conduct provides administrative support for faculty and students bringing forth charges of academic dishonesty. The Office of Student Conduct also provides information about the process for the accused student.
- Formal rules of evidence are not applicable. The AIB Chairperson must give attention to the rules of confidentiality and privilege.
- Students and faculty are allowed one (1) advisor. Advisors may speak to the student or faculty member, but may not speak for the student or faculty member.

- The accused student and the Academic Integrity Board are permitted to question the complainant and all witnesses.
- AIB hearings and deliberations are closed to the public.
- All hearings are recorded and may be transcribed when necessary. Recordings of hearings remain the exclusive property of the University. Students must review recordings in the presence of Student Conduct personnel.
- Witnesses are excluded from the hearing during the testimony of other witnesses. All witnesses are excluded from AIB deliberations.
- The AIB finds in-violation or not in-violation of the Academic Integrity Code on the basis of the preponderance of evidence.
- If the AIB finds the student in-violation, the Office of Student Conduct retains a record of the finding and sanction for a minimum of five (5) years.

VII. Academic Integrity Board (AIB)

A. Composition

Appalachian State University's Academic Integrity Board consists of twelve (12) members. Six (6) faculty members and six (6) students are appointed to the Board. Faculty AIB members are nominated by the Committee on Committees of the Faculty Senate from a list of volunteers willing to serve, and approved by a vote of the Faculty Senate. Faculty members serve three-year staggered terms and may be nominated for consecutive terms. Student AIB members are selected by the Conduct Personnel Committee (see Section 3.06 of the Code of Student Conduct). Student AIB members serve two-year staggered terms.

B. Committees

The AIB contains two (2) standing committees: (1) the faculty committee and (2) the student committee.

1. Faculty Committee

The Faculty Committee is composed of the AIB's six (6) faculty members and one (1) student member. This committee is charged with:

- Providing their peers with guidelines for promoting and enforcing academic integrity.
- Educating faculty about academic integrity issues.
- Conducting academic integrity workshops for faculty.
- Observing faculty reactions to the operation of the Code and to the academic environment of Appalachian State University.

2. Student Committee

The Student Committee is composed of the AIB's six (6) student members and one (1) faculty member. The committee shall:

- Promote academic integrity among their peers through a series of seminars, workshops, and classes.
- Educate students about the seriousness of academic integrity.
- Observe student reactions toward the operation of the Code and Appalachian State University's academic environment.

C. Academic Integrity Board Chairperson

AIB members select a Chair and Vice Chair yearly in the Spring semester. The Chair may vote only in the case of a tie. A student Chair must be a junior or senior and have a minimum GPA of 2.5 at the time of election. The Chair's duties include:

- Presiding over all meetings and hearings of the full AIB.
- Acting as spokesperson for the AIB.
- Working closely with the Office of Student Conduct throughout the Code's operation.

In the event of the Chair's absence or inability to perform these duties, the Vice Chair assumes the above duties.

VIII. Sanctions

Under the Academic Integrity Code, there are three (3) times when sanctions may be imposed: (1) by consent of the student pursuant to Section VI.A.1.; (2) during the faculty/student resolution process; and (3) during an AIB hearing's sanction phase.

A. Faculty/Student Resolution Process Sanctions

All offenses may be discussed between the faculty member and the accused student, unless the faculty member or student waives the right to the resolution process. Every violation presents faculty members the opportunity to educate students about academic integrity. The faculty member and the student may agree upon one (1) or more of the following sanctions:

- A reduced grade on the assignment.
- A reduced grade for the course.
- A grade of F on the assignment.
- A grade of F for the course.
- Faculty members may require a student found in-violation of the Academic Integrity Code to attend a workshop on academic integrity.

Members of the AIB conduct all workshops. The AIB reserves the right to impose another sanction on students who do not attend the mandatory workshop.

B. Academic Integrity Board (AIB) Hearing Sanctions

First time offenses are referred to the Office of Student Conduct and all second offenses are subject to an AIB hearing. The AIB may recommend one (1) or more of the following sanctions when a student is found in-violation:

- Referring the decision about sanction to the faculty member limited to the resolution process listed in VIII.A.
- Probation.
- Disciplinary suspension.
- Expulsion.
- Special programs.

Students found in-violation of the Academic Integrity Code must attend a workshop on academic integrity (refer to VIII.A.).

The AIB considers all relevant factors when recommending sanctions: e.g., seriousness, previous student record.

IX. Appeals

Students found in violation of the Academic Integrity Code may submit a written appeal to the Provost or his or her designee within five (5) business days after notification of their having been so found. Grounds for an appeal include significant new evidence and procedural error. The Provost or his or her designee reserves the right to accept or reject any appeal.

X. Amendments to Academic Integrity Code and Academic Integrity Board By-Laws

Proposed amendments to the Academic Integrity Code and AIB By-Laws are recommendations to the Chancellor. The Academic Integrity Board may make recommendations for such changes to the Chancellor.

Resolution forms can be downloaded from www.studentconduct.appstate.edu.

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